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November 22, 2019

Hon. Katherine Polk Failla, USDJ
United States District Court
for the Southern District of New York
40 Foley Square
New York, New York 10007
VIA ECF

MEMO ENDORSED

Re: Williams et al v. Movage, Inc. et al
Docket No.: 17-cv-02628-KPF

Dear Judge Failla,

I am co-counsel for Plaintiffs in the above-captioned action. I write respectfully to advise you on the settlement of attorney fees and costs in the above matter and to request an extension of time for the parties to submit the text of the proposed judgment and for Plaintiffs' counsel to file a ***Cheeks*** motion from today to Monday, December 2, 2019. Earlier today, Defense counsel was asked to consent by my co-counsel, but has not responded. I have no reason to believe, however, that he would have opposed this application.

By way of a status report, counsel for the parties agreed yesterday afternoon on the amount of \$60,000 in attorney fees and costs after week-long negotiations which were the epitome of hard fought, arm's length negotiations, and which involved Defense counsel's use of fractal analytics and logarithmic equations to discover potential patterns of overbilling by Plaintiffs' counsel. Arm's length negotiations are one of the factors that courts are supposed to consider in their approval of wage and hour settlements and attorney fees. *See, generally, Wolinsky v. Scholastic Inc.*, 900 F. Supp. 2d 332 (S.D.N.Y. 2012).

In arriving at a settlement on the amount of attorney fees and costs in this collective action under the Fair Labor Standards Act, negotiated after Plaintiffs had accepted Defendants' offer of judgment, we conserved substantial judicial resources and avoided considerable delay in payments to Plaintiffs, which could have involved not only objections to the magistrate judge's report and recommendation but also, potentially, an appeal to the 2nd Circuit.

Whilst negotiating with Defense counsel, we were gearing up for full-bore litigation on attorney fees and costs, and now must switch gears and prepare a judgment which takes into account Plaintiffs' participation in the judgment on a *pro rata* basis and a division of attorney fee between me and my co-counsel as well as a ***Cheeks*** motion, which requires a somewhat different approach than a fully-briefed motion for fees and costs. This will require still further negotiations with opposing counsel on the text of the proposed judgment and of the ***Cheeks*** motion. In seeking this Court's indulgence, we are also mindful of the Thanksgiving holiday next

week, and consequently, a shortened week.

Consequently, we respectfully request that Your Honor grant an extension of time for the parties to submit a proposed judgment and for Plaintiffs' counsel to submit a Cheeks motion from today to December 2, 2019.

Thank you for your attention to the foregoing.

Respectfully submitted,

/s/Robert Wisniewski

Robert Wisniewski

cc: (via ECF)

Joshua Lurie

Eugene Strupinsky

Counsel for Defendants

Application GRANTED. The parties hereby have until December 2, 2019, to file a proposed judgment and *Cheeks* motion with the Court.

Dated: November 25, 2019
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE